

Assembly Bill No. 2283

CHAPTER 397

An act to amend Section 40703 of, and to add Section 39702.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 8, 2000. Filed
with Secretary of State September 11, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2283, Florez. Air pollution: control measures.

(1) Existing law requires air pollution control districts and air quality management districts to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards.

Existing law defines "best available control technology" (BACT) as an emission limitation that will achieve the lowest achievable emission rate for the source to which it is applied. Existing law defines "best available retrofit control technology" (BARCT) as an emission limitation that is based on the maximum degree of reduction achievable.

Existing law requires each district with moderate air pollution to include the use of BACT for any new or modified stationary source that has the potential to emit 25 pounds or more per day of any nonattainment pollutant or its precursors.

Existing law also requires each district with serious air pollution to include the use of BARCT for all existing permitted stationary sources, to the extent necessary to meet the requirements of that district's attainment plan.

This bill would require the State Air Resources Board to investigate specified matters with respect to emissions abatement equipment required by the San Joaquin Valley Unified Air Pollution Control District with respect to primarily seasonal sources, as specified. The bill would require the state board to investigate the average useful life of emissions abatement equipment used to meet BACT or BARCT, the implications of imposing additional requirements on emission sources that are controlled to BACT and BARCT levels, the average, actual, and historical costs of complying with BACT and BARCT requirements, and the implications of applying incremental cost effectiveness thresholds to projects subject to those requirements. The bill would require the state board to provide a report to the Legislature on its findings by January 1, 2002. The bill would also require the state board to appoint an advisory committee, consisting of representatives of specified groups, to assist the state board in performing the investigation and preparing the report.

(2) Existing law also requires each district to consider the cost effectiveness of specific control measures in adopting its attainment plan, and to provide its findings to the public.

This bill would require each district to also consider and provide to the public the basis of those findings and the considerations involved in determining the findings.

(3) By imposing new duties on districts, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 39702.5 is added to the Health and Safety Code, to read:

39702.5. (a) The state board, in consultation with the advisory committee established pursuant to subdivision (e), shall investigate and provide a report to the Legislature by January 1, 2002, on all of the following matters with regard to emissions abatement equipment required by the San Joaquin Valley Unified Air Pollution Control District with respect to primarily seasonal sources from steam generators, boilers, process heaters, furnaces, and dehydrators that are subject to BACT and BARCT requirements:

(1) The average useful life of emissions abatement equipment utilized to meet “best available control technology” (BACT), as defined in Section 40405, or “best available retrofit control technology” (BARCT), as defined in Section 40406. This assessment shall be based on projections provided by the district, the experience of source operators, and representations made by manufacturers of the equipment.

(2) The implications of imposing additional requirements on emission sources already controlled to BACT and BARCT levels, accounting for the costs of, and the emission reductions attributable to, previous BACT and BARCT controls.

(3) The average, actual, and historical costs, for a representative number of sources of steam generators, boilers, process heaters, furnaces, and dehydrators that are subject to BACT and BARCT requirements of complying with those requirements, and a

comparison of those costs to estimates utilized by the district in the development of those requirements.

(4) The implications of applying incremental cost effectiveness thresholds to sources that are subject to BACT and BARCT requirements, and the implications of applying these thresholds for the development of future BACT and BARCT requirements.

(b) The investigation required by this section shall include only the sources of oxides of nitrogen (NO_x) controlled by BACT and BARCT requirements in the district described in subdivision (a).

(c) The report required by subdivision (a) shall take into account air quality and public health considerations, as well as factors such as growth, interbasin transport of air pollutants from other regions, and other factors deemed appropriate by the state board. The report shall also specifically take into account the operation of seasonal sources, safety issues, energy efficiency, capital costs, operational and maintenance costs, and the implications of potential catastrophic events on sources. The state board shall also consider any other factors deemed appropriate by the advisory committee appointed pursuant to subdivision (e). The advisory board, if it deems appropriate, may recommend that the state board also consider including stationary internal combustion engines in the report, if the advisory board also determines that the inclusion of stationary internal combustion engines would not significantly expand the scope of the report.

(d) The state board shall have the final determination of the scope of the investigation and the report required by this section.

(e) The state board shall appoint an advisory committee to assist the state board in, and to provide advice on, the investigation conducted and the report prepared pursuant to subdivision (a). To the extent practicable, this advisory committee shall include representatives from all of the following:

- (1) The district.
- (2) Environmental organizations.
- (3) Stationary source related organizations.
- (4) Seasonal stationary source related organizations.
- (5) Agricultural interests.

(6) A representative of the United States Environmental Protection Agency shall be invited to participate.

(7) Any other entity or organization the state board deems appropriate.

(f) The principal purpose of the report required by subdivision (a) is to provide a basis for evaluating the cost effectiveness, safety, and related matters associated with air pollution control technologies in the San Joaquin Valley.

SEC. 2. Section 40703 of the Health and Safety Code is amended to read:

40703. In adopting any regulation, the district shall consider, pursuant to Section 40922, and make available to the public, its findings related to the cost effectiveness of a control measure, as well as the basis for the findings and the considerations involved. A district shall make reasonable efforts, to the extent feasible within existing budget constraints, to make specific reference to the direct costs expected to be incurred by regulated parties, including businesses and individuals.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

